

### **Remarks**

Claims 1-19 are pending in the application. Claims 20-40 have been canceled without prejudice as being drawn to a non-elected invention. The Applicants expressly reserve the right to prosecute in subsequent divisional applications or continuing applications or both claims covering the subject matter of the claim canceled to conform with the Applicants election in response to the Restriction Requirement. 35 U.S.C. §§ 120-121.

Claims 1 and 19 have been amended. Support for the claim amendments can be found throughout the application, including the claims as originally filed. Importantly, no new matter has been added to the claims. The amendment to the claims should not be construed to be an acquiescence to any of the rejections. The amendments to the claims are being made solely to expedite the prosecution of the above-identified application. The Applicant reserves the right to further prosecute the same or similar claims in subsequent patent applications claiming the benefit of priority to the instant application. 35 USC § 120.

### **Response to Rejections under 35 U.S.C. § 112¶2**

Claim 19 stands rejected under 35 U.S.C. § 112¶2 based on the Examiner's contention that it is indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner contends that the composition claimed in claim 19 is not characterized and therefore indefinite. The Applicants respectfully disagree with this contention.

Claim 19, as amended, is drawn to a composition comprising a compound of formula I and a pharmaceutically acceptable carrier. Support for this amendment can be found on page 39 of the specification. The Applicants respectfully submit that claim 19 as amended is definite because the composition claimed comprises the components: a compound of formula I and a pharmaceutically acceptable carrier.

Accordingly, the Applicants respectfully request the withdrawal of the rejection of claim 19 under 35 U.S.C. 112¶2.

**Response to Rejections Under 35 U.S.C. § 102(b)**

Claims 1-3 stand rejected under 35 U.S.C. § 102(b) based on the Examiner's contention that they are anticipated by Heath et al. (U.S. Patent No. 3,869,499). The Applicants respectfully disagree with this contention. The Examiner contends that Heath et al. anticipates claims 1-3 because it discloses compounds of formula I when Ar and Ar' are phenyl, Z is hydrogen, X is O, and T is O. The Applicants respectfully submit that just O alone is not within the scope of the definition of T. T in claim 1 is defined as a covalent tether wherein the covalent tether comprises an amide, ether, amine or ester moiety. T is not defined as a covalent tether comprising O. An ether moiety requires the presence of other groups, i.e., for example -R-O-R-, according to its accepted meaning by one of ordinary skill in the art. It is incorrect to include Ar and Ar' as groups that make up an ether moiety along with T = O, as Ar and Ar' are defined separately from T. In order to anticipate a claim, a single reference has to disclose each and every element of the claim. Because Heath et al. does not disclose compounds comprising T as defined in claim 1, the Applicants respectfully submit that Heath et al. does not anticipate claims 1-3.

Accordingly, the Applicants respectfully request the withdrawal of the rejection of claims 1-3 under 35 U.S.C. § 102(b) over Heath et al.

Claim 1 stands rejected under 35 U.S.C. § 102(b) based on the Examiner's contention that it is anticipated by JP 53092722 ("JP'722"). The Applicants respectfully disagree with this contention.

Claim 1 as amended requires that when T comprises an amine moiety that the amine be a substituted amine. Support for this amendment can be found on page 14 of the specification within the definition of amine. JP'722 discloses only an unsubstituted amine. In order to anticipate a claim, a single reference has to disclose each and every element of the claim. Because JP'722 does not disclose substituted amines, the Applicants respectfully submit that JP'722 does not anticipate claim 1.

Accordingly, the Applicants respectfully request the withdrawal of the rejection of claim 1 under 35 U.S.C. § 102(b) over JP'722.

### **Response to Objection of Claims**

Claims 4-18 were objected to by the Examiner for being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. The Applicants respectfully submit that the independent base claim as amended is now in condition for allowance and therefore so are claims 4-18.

Accordingly, the Applicants respectfully request the withdrawal of the objection to claims 4-18.

### **Fees**

The Applicants believe that no additional fees are due in connection with the filing of this paper. Nevertheless, the Director is hereby authorized to charge any additional required fee to our Deposit Account, **06-1448**.

### Conclusion

In view of the above amendments and remarks, the Applicants believe that the pending claims are in condition for allowance. If a telephone conversation with Applicant's Agent would expedite prosecution of the application, the Examiner is urged to contact the undersigned.

Respectfully submitted,  
Foley Hoag LLP

Foley Hoag LLP  
155 Seaport Boulevard  
Boston, MA 02210  
Telephone: (617) 832-1000  
Telecopier: (617) 832-7000

By: Michael J. DiVerdi  
Michael J. DiVerdi, PhD  
Reg. No. 51,620  
Agent for Applicants

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